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	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	X	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
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9. FOIA Officer		
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SUSPENSE

13 APR. 88

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**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET**

WASHINGTON, D.C. 20503

April 4, 1988

SPECIAL

OCA 1017-88

LEGISLATIVE REFERRAL MEMORANDUM

TO: Department of State - Bronwyn Bachrach (647-4463)
Department of Defense - Samuel T. Brick, Jr. (697-1305)
Department of the Treasury - Carole Toth (566-8523)
Central Intelligence Agency
National Security Council
Administrative Office of the United States Courts

OCA FILE *lej*

SUBJECT: Department of Justice draft bill to amend the immigration laws to provide a new method of removing from the United States, aliens involved in terrorist acts, and for other purposes.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than

APRIL 13, 1988

Direct your questions to Branden Blum (395-3454), the legislative attorney in this office.

[Signature]
James C. Murr for
Assistant Director for
Legislative Reference

Enclosure

cc: A.B. Culvahouse, Jr.
B. Damus
J. Hill
T. Treacy

T. Davis
F. Kalder
G. Jones
S. Thau

3/28/88

This Act may be cited as the Terrorist Alien Removal Act of 1988.

Sec. 2. The Congress finds that --

(a) Terrorist groups have been able to create significant infrastructures and cells in the United States among persons who are in the United States either temporarily, as students or in other capacities, or as permanent resident aliens.

(b) International terrorist groups that sponsor these infrastructures were responsible for--

(1) conspiring to bomb the Turkish Honorary Consulate in Philadelphia, Pennsylvania in 1982;

(2) hijacking TWA flight 847 during which a United States Navy diver was murdered in 1985;

(3) hijacking Egypt Air Flight 648 during which three Americans were killed in 1985;

(4) murdering an American citizen aboard the Achille Lauro cruise liner in 1985;

(5) hijacking Pan Am Flight 73 in Karachi, Pakistan, in which 44 Americans were held hostage and two were killed in 1986;

(6) conspiring to bomb an Air India aircraft in New York City in 1986;

(7) attempting to bomb the Air Canada cargo facility at the Los Angeles International airport in 1986; and

(8) numerous bombings and murders in Northern Ireland over the past decade.

(c) Certain governments and organizations have directed their assets in the United States to take measures in preparation for the commission of terrorist acts in this country.

(d) Present immigration laws have not been used to any significant degree by law enforcement officials to deport alien terrorists because compliance with these laws with respect to such aliens would compromise classified intelligence sources and information. Moreover, appellate procedures routinely afforded aliens following a deportation hearing frequently extend over several years resulting in an inability to remove expeditiously aliens engaging in terrorist activity.

(e) Present immigration laws are inadequate to protect the national security of the United States from terrorist attacks by certain aliens. Therefore, new procedures are needed to remove alien terrorists from the United States and thus reduce the threat that such aliens pose to the national security and other vital interests of the United States.

Sec. 3(a). Subsection 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended by adding at the end thereof a new paragraph 21 as follows:

"(21) either prior or subsequent to entry is engaging in or has engaged in terrorist activity.".

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(b) Subsection 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end thereof the following new paragraphs:

"(43) The term 'terrorist activity' means any activity which is unlawful under the laws of the place where it is committed, or which, if committed in the United States would have been unlawful under the laws of the United States or of any State and which involves --

"(A) the hijacking of an aircraft, vessel, or vehicle;

"(B) the sabotage of an aircraft, vessel, or vehicle;

"(C) the seizing or detaining and threatening to kill, injure, or continue to detain another person in order to compel a third person or governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained or seized;

"(D) a violent attack upon the person or liberty of an 'internationally protected person' as defined in 18 U.S.C. 1116(b)(4);

"(E) the use of any explosive, biological agent, chemical agent, nuclear weapon or device, or firearm with intent to endanger, directly or indirectly, the safety of people or cause substantial damage to property;

"(F) an assassination; or

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"(G) any threat, attempt, or conspiracy to do any of the foregoing.

"(44) The term 'engage in a terrorist activity' means to commit an act of terrorist activity or to do an act which the actor knows, or reasonably should know, affords material support to any individual or enterprise in conducting terrorist activity at any time including, but not limited to

--

"(A) the preparation and planning of terrorist activity;

"(B) the gathering of intelligence on potential targets for terrorist activity;

"(C) the providing of any type of material support including but not limited to a safe house, transportation, funds, false identification, weapon, or explosive to any individual who the actor knows or has reason to believe has committed or plans to commit an act of terrorist activity;

"(D) the soliciting of funds or other things of value for terrorist activity or for any organization which engages in or which has engaged in terrorist activity; or

"(E) the solicitation of any individual for membership in a terrorist enterprise;

The term does not include lawful speeches, writings, or attendance and participation in peaceful public assemblies; provided, however, that evidence of any speech, writing, or

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participation in any public assembly may be used to show the actor's awareness of the unlawful methods of an individual or enterprise conducting terrorist activity.

"(45) The term 'individual' means a human being.

"(46) The term 'enterprise' means an organization or government."

Sec. 4. The Immigration and Nationality Act is amended by adding at the end thereof a new Title V as follows:

TITLE V REMOVAL OF ALIEN TERRORISTS

"Sec.

"501 (adds 8 U.S.C. §1601). Applicability.

"502 (adds 8 U.S.C. §1602). Special Removal Hearing.

"503 (adds 8 U.S.C. §1603). Designation of Judges.

"504 (adds 8 U.S.C. §1604). Miscellaneous Provisions.

"§ 501. Applicability

"(a) The provisions of this title may be followed in the discretion of the Department of Justice whenever the Department of Justice has information that an alien described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) is subject to deportation because of that paragraph.

"(b) Whenever an official of the Department of Justice files, under section 502, an application with the court established under section 503 for authorization to seek removal pursuant to the provisions of this title, the alien's rights regarding removal and expulsion shall be governed solely by the

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provisions of this title. Except as they are specifically referenced, no other provisions of the Immigration and Nationality Act shall be applicable.

"(c) This title is enacted in response to findings of Congress that aliens described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) represent a unique threat to the security of the United States. It is the intention of Congress that such aliens be promptly removed from the United States following --

"(1) a judicial determination of probable cause to believe that a person is such an alien; and

"(2) a judicial determination pursuant to the provisions of this title that an alien is removable on the grounds that he is an alien described in paragraph 21 of subsection 241(a) (8 U.S.C. 1251(a)(21));

and that such aliens not be given a deportation hearing and are ineligible for any discretionary relief from deportation and for relief under subsection 243(h) of the Immigration and Nationality Act.

"§502. Special Removal Hearing

"(a) Whenever removal of an alien is sought pursuant to the provisions of this title, a written application upon oath or affirmation shall be submitted in camera and ex parte to the court established under section 503 for an order authorizing such a procedure. Each application shall require the approval of the

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Attorney General, the Deputy Attorney General, or the Associate Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. Each application shall include --

"(1) the identity of the Department of Justice attorney making the application;

"(2) the approval of the Attorney General, the Deputy Attorney General, or the Associate Attorney General for the making of the application;

"(3) the identity of the alien for whom authorization for the special removal procedure is sought; and

"(4) a statement of facts and circumstances relied on by the Department of Justice to establish that

"(A) an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) is physically present in the United States; and

"(B) with respect to such alien, adherence to the provisions of Title II of this Act regarding the deportation of aliens would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information.

"(b) The application shall be filed under seal with the court established under section 503. The Attorney General may take into custody any alien with respect to whom such an application has been filed and, notwithstanding any other provision of

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law, may retain such an alien in custody in accordance with the procedures authorized by this title.

"(c) In accordance with the rules of the court established under section 503, the judge shall consider the application and may consider other information presented under oath or affirmation at an in camera and ex parte hearing on the application. A verbatim record shall be maintained of such a hearing. The application and any other evidence shall be considered by a single judge of that court who shall enter an ex parte order as requested if he finds, on the basis of the facts submitted in the application and any other information provided by the Department of Justice at the in camera and ex parte hearing, there is probable cause to believe that--

"(1) the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)); and

"(2) adherence to the provisions of Title II of this Act regarding the deportation of the identified alien would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information.

"(d) (1) In any case in which the application for the order is denied, the judge shall prepare a written statement of his reasons for the denial and the Department of Justice may seek a review of the denial by the Court of Appeals for the Federal

Circuit by notice of appeal which must be filed within twenty days. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte.

"(2) If the Department of Justice does not seek review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to Title II of this Act as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(3) If the application for the order is denied because the judge has not found probable cause to believe that the alien who is the subject of the application has been correctly identified or is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)) and the Department of Justice seeks review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to Title II of this Act as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this Title.

"(4) If the application for the order is denied because, although the judge found probable cause to believe that the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)), the judge has found that there is not probable cause to believe that adherence

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to the provisions of Title II of this Act regarding the deportation of the identified alien would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in subsections 3142(b) and (c) (1) (B) (i)-(xiv) of title 18 that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community, but if the judge finds no such condition or combination of conditions the alien shall remain in custody until the completion of any appeal authorized by this title. The provisions of sections 3145-3148 of title 18 pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom the previous sentence applies and --

"(A) for purposes of section 3145 an appeal shall be taken to the Court of Appeals for the Federal Circuit; and

"(B) for purposes of section 3146 the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(e) (1) In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider separately each item

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of evidence the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing. The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that the introduction other than in camera and ex parte would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information. With respect to any evidence which the judge authorizes to be introduced in camera and ex parte, the judge shall cause to be prepared and shall sign, and the Department of Justice shall cause to be delivered to the alien, either --

"(A) a written summary which shall be sufficient to inform the alien of the general nature of the evidence that he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) and to permit the alien to marshal the facts and prepare a defense, but which shall not tend to harm the national security, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source; or

"(B) if necessary to prevent serious harm to the national security or death or serious bodily injury to any person, a statement informing the alien that no such summary is possible.

"(2) The Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the Federal

Circuit of any determination by the judge pursuant to paragraph

(1) --

"(A) concerning whether an item of evidence may be introduced in camera and ex parte;

"(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to subparagraph (e) (1) (A); or

"(C) ruling that no summary of evidence to be introduced in camera and ex parte is possible pursuant to subparagraph (e) (1) (B) .

In any interlocutory appeal taken pursuant to this paragraph, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal which shall hear the matter ex parte. The Court of Appeals shall consider the appeal as expeditiously as possible.

"(f) In any case in which the application for the order is approved, the special removal hearing authorized by this section shall be conducted for the purpose of determining if the alien to whom the order pertains should be removed from the United States on the grounds that he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a) (21)). In accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(g) The special removal hearing shall be held before the same judge who granted the order pursuant to subsection (e) unless that judge is deemed unavailable due to illness or disability by the chief judge of the court established pursuant to section 503, or has died. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(h) The hearing shall be open to the public. The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent him. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted as provided for in section 3006A of title 18, all provisions of that section shall apply, and for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged. The alien may be called as a witness by the Department of Justice. The alien shall have a right to introduce evidence on his own behalf. Except as provided in subsection (j), the alien shall have a reasonable opportunity to examine the evidence against him and to cross-examine any witnesses. A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept. The decision of the judge shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (j).

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"(i) At any time prior to the conclusion of the hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (j), and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena. If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid for from funds appropriated for the enforcement of Title II of this Act. A subpoena under this subsection may be served anywhere in the United States. A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States. Nothing in this subsection is intended to allow an alien to have access to classified information.

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"(j) Evidence which has either been summarized pursuant to subsection (e) (1) (A) or for which no summary has been deemed possible pursuant to subsection (e) (1) (B) shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien, nor the public shall be informed of such evidence or its source other than through reference to the summary provided pursuant to subsection (e) (1) (A) or to the explanation that no summary could be provided pursuant to subsection (e) (1) (B). Notwithstanding the previous sentence, the Department of Justice may, in its discretion, elect to introduce such evidence in open session.

"(k) Evidence introduced at the hearing, either in open session or in camera and ex parte may, in the discretion of the Department of Justice, include all or part of the information presented under subsections (a) through (c) used to obtain the order for the hearing under this section.

"(l) Following the receipt of evidence, the attorney for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

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"(m) The Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)). If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed.

"(n)(1) At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of evidence received in camera and ex parte pursuant to subsection (j) shall not be made available to the alien or the public.

"(2) The decision of the judge may be appealed by either the alien or the Department of Justice to the Court of Appeals for the Federal Circuit by notice of appeal which must be filed within twenty days, during which time such order shall not be executed. In any case appealed pursuant to this subsection, the entire record shall be transmitted to the Court of Appeals and information received pursuant to subsection (j), and any portion of the judge's order that would reveal such information or its source, shall be transmitted under seal. The Court of Appeals shall consider the case as expeditiously as possible.

"(3) In an appeal to the Court of Appeals pursuant to either subsections (d) or (e) or this subsection, the Court of Appeals shall review questions of law de novo but a prior finding on any

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question of fact shall not be set aside unless such finding was clearly erroneous.

"(o) If the judge decides, pursuant to subsection (n), that the alien should not be removed, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to Title II of this Act as an alien subject to deportation in which case, for purposes of detention, such alien may be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(p) Following a decision by the Court of Appeals pursuant to either subsection (d) or subsection (n), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal.

"§503. Designation of Judges

"(a) The Chief Justice of the United States shall publicly designate five district court judges from five of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all matters and proceedings authorized by section 502. One of the judges so appointed shall be publicly designated as the presiding judge by the Chief Justice. The presiding judge shall promulgate rules to facilitate the

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functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(b) Proceedings under section 502 shall be conducted as expeditiously as possible. The Chief Justice, in consultation with the Attorney General and other appropriate federal officials, shall, consistent with the objectives of this title, provide for the maintenance of appropriate security measures for applications for ex parte orders to conduct the special removal hearing authorized by section 502, the orders themselves, evidence received in camera and ex parte, and other matters as necessary to protect information concerning matters before the court from harming the national security of the United States, adversely affecting foreign relations, revealing investigative techniques, or disclosing confidential sources of information.

"(c) Each judge designated under this section shall serve for a term of five years and shall be eligible for redesignation except that the four associate judges first designated under subsection (a) shall be designated for terms of from one to four years so that one term expires each year.

"§ 504. Miscellaneous Provisions

"(a) (1) Following a determination pursuant to this title that an alien shall be removed, and after the conclusion of any judicial review thereof, the Attorney General may retain the alien in custody, or if the alien was released pursuant to subsection 502(o) may return the alien to custody, and shall cause the alien to be transported to any country which the alien shall designate provided such designation does not, in the

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Attorney General's judgment, impair any treaty (including a treaty pertaining to extradition) obligation of the United States or otherwise adversely affect the foreign policy of the United States.

"(2) If the alien refuses to choose a country to which he wishes to be transported, or if the Attorney General determines that removal of the alien to a selected country would impair a treaty obligation or adversely affect foreign policy, the Attorney General shall cause the alien to be transported to any country willing to receive such alien.

"(3) Before an alien is transported out of the United States pursuant to paragraph (1) or (2) or pursuant to an order of exclusion because such alien is excludable under paragraph 34 of subsection 212(a) of this Act (8 U.S.C. 1182(a)(34)), he or she shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

"(4) If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General shall make periodic efforts to reach agreement with other countries to accept such an alien and shall submit a written report on his efforts to obtain such an agreement to the alien at least every six months. Any alien in custody pursuant to this subsection shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate. The actions of the Attorney

General pursuant to this subsection shall not be subject to judicial review, including application for a writ of habeas corpus except for a claim that his rights under the Constitution are being violated by continued detention. Jurisdiction over any such challenge shall lie exclusively in the Court of Appeals for the Federal Circuit.

"(b)(1) Notwithstanding the provisions of subsection (a), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any federal or State criminal charge and the service of any sentence of confinement resulting from such a trial..

"(2) Pending the commencement of any service of a sentence of confinement, by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (a) concerning removal of the alien.

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"(c) For the purposes of sections 751 and 752 of title 18, an alien in the custody of the Attorney General pursuant to this title shall be considered as being committed to the custody of the Attorney General by virtue of an arrest on a charge of felony.

"(d) (1) An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunities to communicate with and receive visits from members of his or her family, and to contact, retain, and communicate with an attorney.

"(2) An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country, or an official of any country providing representation services for that country. The Attorney General shall notify the appropriate embassy of the alien's detention."

Sec. 5. Subsection 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by adding at the end thereof a new paragraph 34 as follows:

"(34) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe are engaging in, have engaged in, or probably would, after entry, engage in terrorist activity."

Sec. 6.(a) Subsection 235(c) of the Immigration and Nationality Act (8 U.S.C. 1225(c)) is amended by striking out "or (29)" and inserting in lieu thereof "(29), or (34)".

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(b). Section 106(b) (8 U.S.C. § 1105a(b)) of the Immigration and Nationality Act is amended by adding at the end thereof the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) of this Act concerning an alien excludable under paragraph 34 of subsection 212(a) (8 U.S.C. 1182(a)) shall rest exclusively in the United States Court of Appeals for the Federal Circuit."

Sec. 7. Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by inserting "(a)" before the phrase "Any alien who" at the beginning thereof and by adding a new subsection (b) as follows:

"(b) Any alien who has been excluded from the United States pursuant to Subsection 235(c) of the Immigration and Nationality Act (8 U.S.C. 1225(c)) because such alien was excludable under paragraph 34 of subsection 212(a) of said Act (8 U.S.C. 1182(a)(34)) or has been removed from the United States pursuant to the provisions of Title V of the Immigration and Nationality Act and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be imprisoned for a period of ten years which sentence shall not run concurrently with any other sentence and fined in accordance with the provisions of title 18, United States Code."

Sec. 8. Subsection 106(a) (8 U.S.C. 1105a(a)) of the Immigration and Nationality Act is amended by --

(1) striking from the end of paragraph 8 "; and" and inserting a period; and

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(2) striking paragraph (9).